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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 6796

DATE COMPLAINT FILED: March 13, 2014

**DATE OF NOTIFICATIONS: March 20 and
April 28, 2014**

LAST RESPONSE RECEIVED: June 13, 2014

DATE ACTIVATED: July 9, 2014

**EXPIRATION OF SOL: February 13, 2019
(earliest)/April 15, 2019 (latest)**

ELECTION CYCLE: 2014

COMPLAINANT:

**Congressional Leadership Fund and Brian Walsh,
President**

RESPONDENTS:

**House Majority PAC and Shannon Roche in her
official capacity as treasurer
Alex Sink for Congress and Jennifer May in her
official capacity as treasurer
Largo/Mid-Pinellas Democratic Club
Elizabeth Snedeker
Rich Piper**

**RELEVANT STATUTES
AND REGULATIONS:**

**52 U.S.C. § 30116(a)¹
52 U.S.C. § 30116(f)
11 C.F.R. § 109.21**

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

Congressional Leadership Fund alleges that House Majority PAC ("HMP"), an
independent-expenditure only political committee,² violated the Act by "illegally" coordinating a

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

² House Majority PAC registered as an independent-expenditure-only political committee with the Commission on April 8, 2011, indicating that it "intends to raise funds in unlimited amounts," but that it "will not use those funds to make contributions, whether direct, in-kind, or via coordinated communications, to federal candidates or committees." See <http://docquery.fec.gov/pdf/035/11030591035/11030591035.pdf>.

1 television advertisement with Alex Sink for Congress ("Committee") and the Largo/Mid-Pinellas
2 Democratic Club ("Club"), a local party organization. The ad opposed David Jolly, Sink's
3 opponent in the March 11, 2014 special election in Florida's 13th congressional district.

4 The claimed coordination alleged in the Complaint arises out of a presentation that four
5 Sink campaign field organizers provided the Club concerning Sink's campaign goals during a
6 January 2014 Club meeting and HMP's later request that the Club suggest individuals to cast in
7 the pro-Sink television advertisement. The Complaint alleges that the Club served as a conduit
8 between the Committee and HMP, and that the Club — a component of the Democratic Party
9 (the "Party") — was therefore materially involved in crafting the content of the communication
10 or its production.

11 HMP, the Committee, Rich Piper (the Club's president), and Elizabeth Snedeker (one of
12 the individuals cast in the advertisement) all filed Responses denying the allegations. Because
13 the available information provides no reason to infer that the Club served as a conduit for
14 coordination between either the Committee or the Party and HMP, we recommend that the
15 Commission find no reason to believe that HMP made an excessive contribution in the form of a
16 coordinated communication or that the Committee or Party received or accepted such a
17 contribution either directly or through the Club, Snedeker, or Piper. We further recommend that
18 the Commission close the file.

19 **II. FACTUAL AND LEGAL ANALYSIS**

20 **A. Facts**

21 The Largo/Mid-Pinellas Democratic Club is a local party organization in Pinellas County,
22 Florida, with about 50 members, that is chartered by the Florida State and Pinellas County

1 Democratic Party organizations.³ At its January 20, 2014 monthly meeting, the Club hosted four
2 field organizers from the Sink campaign among several other visitors.⁴ In summarizing the
3 meeting for the Club's website, Piper wrote that each organizer "spoke briefly about her territory
4 and the goals and needs of the Sink campaign for Congress in District 13."⁵

5 According to Respondents, sometime after that meeting HMP or its media production
6 agent contacted the Club seeking recommendations for an older, articulate couple who were
7 district residents and Social Security recipients to appear in an advertisement.⁶ HMP apparently
8 spoke to Piper.⁷ Piper suggested Elizabeth Snedeker and her husband, Rod Snedeker, and gave
9 the caller their contact information.⁸ The Snedekers agreed to be interviewed by HMP, and the
10 producers decided to cast them.⁹ On February 11, 2014, the Snedekers were interviewed on
11 camera to discuss Social Security and its potential privatization.¹⁰ Material from that interview
12 was used in HMP's ad, which began to air on February 14, 2014.¹¹

13 The Complaint alleges that the Sink Committee's communication of its "goals and needs"
14 to the Club during the January 2014 meeting made its way from the Club to HMP in connection

³ See <http://largodemocrats.typepad.com/About%20Us.htm>. The Club is one of eight Democratic clubs or caucuses within Pinellas County. See <http://www.pinellademocrats.org/about-us/democratic-clubs-and-caucuses/>.

⁴ See Compl., Ex. C (Mar. 13, 2014).

⁵ *Id.*

⁶ Snedeker Resp. at 1 (May 12, 2014); HMP Resp. at 2 (May 9, 2014).

⁷ Snedeker Resp. at 1.

⁸ *Id.* at 1; HMP Resp. at 2.

⁹ Snedeker Resp. at 1.

¹⁰ *Id.*; see <https://www.youtube.com/watch?v=-ih3JWDF5gc> (last visited Sept. 4, 2014).

¹¹ HMP disclosed with the Commission that it spent \$98,709.09 and \$317,181.69 on television advertising opposing Jolly disseminated on February 14 and 18, 2014, respectively. See HMP 24/48 Hour Report of Independent Expenditures at 3 (Feb. 14, 2014); HMP 24/48 Hour Report of Independent Expenditures at 5 (Feb. 20, 2014).

1 with the advertisement and that HMP therefore coordinated with the Sink Committee.¹² The
2 Complaint also alleges that the Club, as an official, local component of the Democratic Party
3 structure made a “suggestion” regarding the content of the ad, amounting to the material
4 involvement of a political party with a third-party payor under the Commission’s regulations.¹³
5 Moreover, the Complaint alleges that because Elizabeth Snedeker served as Club treasurer, her
6 appearance in the ad constitutes additional “material involvement” of the Party in the creation of
7 the ad’s content.¹⁴

8 In its Response, HMP asserts that the Complaint fails to allege facts suggesting that the
9 Club gave HMP information from the Committee that was material to any aspect of the ad or that
10 Snedeker was an agent of the Committee or the Club.¹⁵ HMP also states that Snedeker is no
11 longer the Club’s treasurer and that she and her husband appeared in the ad as private citizens
12 and local residents.¹⁶ HMP further contends that the Club is not a “political party committee”
13 subject to the Commission’s coordination regulations in any event.¹⁷

14 The Committee asserts that it had no interaction with the Snedekers and was not aware of
15 their Club association or HMP’s independent expenditure until after the ad aired.¹⁸ The
16 Committee also argues that the Complaint fails to allege facts showing that the Snedekers or
17 anyone else at the Club had authority under the Commission’s regulations to act as its agent, that

¹² Compl. at 1.

¹³ *Id.* at 2-3.

¹⁴ *Id.* at 1, 3.

¹⁵ HMP Resp. at 5.

¹⁶ *Id.* at 5-6. Elizabeth Snedeker and Piper both assert that Snedeker had not been Club treasurer since February 2013. *See* Snedeker Resp. at 1; Piper Resp. at 1 (June 13, 2014).

¹⁷ HMP Resp. at 2-4.

¹⁸ Committee Resp. at 3 (May 20, 2014).

1 the Snedekers were at the January meeting where the Committee representatives spoke, or that
2 the Snedekers had any other contact with the Committee.¹⁹

3 In his Response, Club president Piper explains that the Sink Committee “goals and
4 needs” discussed at the January 2014 meeting referred to the Committee’s request for volunteers
5 to canvass voters and staff telephones in advance of the upcoming special election.²⁰ Finally,
6 Elizabeth Snedeker asserts that neither she nor her husband engaged in any strategy discussions
7 with the Sink campaign or the Club “regarding the purpose, content, and use of the ad.”²¹

8 **B. Legal Analysis**

9 The Act defines “contribution” to include anything of value made by any person for the
10 purpose of influencing any election for federal office.²² During the 2014 election cycle, it is
11 unlawful to make a contribution to a candidate and the candidate’s authorized political
12 committee with respect to any election for federal office that in the aggregate exceeds \$2,600.²³
13 The Act also provides that no candidate or political committee may knowingly accept a
14 contribution in violation of section 30116.²⁴

15 A coordinated communication is considered an in-kind contribution from the person to
16 that candidate and is subject to the limits, prohibitions, and reporting requirements of the Act.²⁵
17 A communication is coordinated with a candidate, a candidate’s authorized committee, a
18 political party committee, or their agent if the communication (1) is paid for by a person other

¹⁹ *Id.* at 2-3.

²⁰ Piper Resp. at 1.

²¹ Snedeker Resp. at 1-2.

²² 52 U.S.C. § 30101(8)(A)(i) (formerly 2 U.S.C. § 431(8)(A)(i)).

²³ *Id.* § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)).

²⁴ *Id.* § 30116(f) (formerly 2 U.S.C. § 441a(f)).

²⁵ 11 C.F.R. § 109.21(b).

1 than that candidate, authorized committee, or political party committee (the “payment prong”);
2 (2) satisfies at least one of the content standards set forth in 11 C.F.R. § 109.21(c) (the “content
3 prong”); and (3) satisfies at least one of the conduct standards set forth in 11 C.F.R. § 109.21(d)
4 (the “conduct prong”).

5 The payment prong of the coordinated communication test is satisfied because HMP, a
6 third party, paid for the ad.²⁶ The content prong is also satisfied because the ad is a public
7 communication that clearly refers to Sink’s opponent less than 90 days before the March 11,
8 2014 special election.²⁷

9 In relevant part, the conduct prong will be satisfied if (1) the communication was created,
10 produced, or distributed at the request or suggestion of a candidate, campaign, or political party
11 committee, or the payor suggests the communication and the candidate, campaign or political
12 party committee assents to the suggestion (the “request or suggestion” standard); (2) the
13 candidate, campaign, or political party committee was materially involved in decisions regarding
14 the communication (the “material involvement” standard); or (3) the communication was
15 created, produced, or distributed after one or more substantial discussions between the payor and
16 the candidate, campaign, or a political party committee involving information that is material to
17 the communication (the “substantial discussion” standard).²⁸ The Complaint alleges that the
18 activities of the Club in connection with both HMP and the Sink Committee reflect that HMP
19 satisfied these conduct standards as to both the Sink Committee and the Party. As described
20 below, however, we see no basis on this record to conclude that HMP coordinated its
21 advertisement with either entity under the Commission’s conduct standards for coordination.

²⁶ See *id.* § 109.21(a)(1).

²⁷ See *id.* § 109.21(c)(4)(i).

²⁸ See *id.* § 109.21(d)(1)-(3).

1 1. There Is No Reason to Believe that HMP Engaged in Coordinated
2 Conduct with the Committee

3 First, the Complaint alleges that the Club, through Piper or Elizabeth Snedeker, provided
4 information to HMP concerning the Committee's "goals and needs," information that Committee
5 field organizers conveyed to the Club at its January 2014 meeting.²⁹ The Complaint alleges that
6 this "prohibited coordinating information" from the Committee to HMP was material to HMP's
7 creation and distribution of the HMP ad.

8 Near the time of the events, Piper publicly characterized the information that the Sink
9 Committee representatives presented during the meeting as related to the "goals and needs" of
10 the Committee. But there is no affirmative indication that any of that information was in fact
11 conveyed through the Club or its membership to HMP, let alone that the Committee intended for
12 the Club to act as an intermediary on its behalf. Moreover, the Responses assert that the
13 information that the Committee field organizers in fact provided during the meeting was simply
14 to request volunteers to make telephone calls and canvass voters, and that they did not discuss
15 campaign messages or advertising; if so, the information would not have been material to the
16 creation or production of the communication in any event.³⁰ The Responses further note that
17 Elizabeth Snedeker was not a Club officer³¹ and that she and her husband were not part of any
18 strategy meetings with the Sink Committee regarding the purpose, content, or use of the

²⁹ The Complaint does not allege, but appears to assume, that Snedeker attended the Club meeting at issue. The available information, including the Responses, does not indicate whether she did.

³⁰ Piper Resp. at 1.

³¹ *Id.*; Snedeker Resp. at 1.

advertisement.³² And Piper also contends that the Committee's presentation to the Club had no connection to the creation, production, or distribution of that communication.³³

Given this record, we see no basis to conclude that the relevant individuals who attended the meeting during which the Committee's representatives spoke may have conveyed any material information to HMP in connection with its creation of the subject communication. Piper's recommendation of a couple suited to HMP's casting needs as HMP described them does not, standing alone, suggest otherwise. And no factual information in either the Complaint or otherwise available in the public domain otherwise supports the assertion or, for that matter, conflicts with the exculpatory representations of fact that the Respondents provide in their submissions to the Commission. Accordingly, we do not believe the Complaint raises a reasonable inference that the Club, through either Piper or the Snedekers, served as a conduit for the Sink Committee to pass material information to HMP in connection with HMP's advertisement.

2. There Is No Reason to Believe that HMP Engaged in Coordinated Conduct with the Party

Second, the Complaint alleges that the Club, "as part of the official Democratic Party structure," was materially involved in the creation of the communication as a result of the Club president's suggestion that HMP feature the Snedekers as spokespersons. It also alleges that Elizabeth Snedeker's appearance alone constitutes the material involvement of "the Party." As noted, the conduct prong of the coordination regulation is satisfied when a candidate, campaign, or a political party committee is "materially involved" in decisions regarding the content of the

³² Snedeker Resp. at 1-2.

³³ See Piper Resp. at 1.

1 communication.³⁴ Thus, according to the Complaint, for both of these reasons the Party received
2 a contribution from HMP in support of its preferred candidate as a result of HMP's allegedly
3 coordinated expenditure on the communication.

4 Under the facts presented here, we do not believe that Snedeker's appearance in the
5 advertisement suggests the material involvement of the Club. It does not appear that she was a
6 Club officer at the time of the events, and there is no available information indicating that she or
7 her husband appeared in the advertisement in their capacity as Club members. The
8 communication itself presents the Snedekers in their home as part-time retirees who depend upon
9 Social Security.³⁵

10 Regarding Piper's contact with HMP, HMP asserts that the Club's only involvement in
11 the communication was to respond to HMP's unsolicited request for a casting suggestion,³⁶ and
12 the available information does not suggest otherwise. Piper's involvement in the creation and
13 production of the communication, then, appears to have been *de minimis* and thus readily
14 distinguishable from the conduct at issue in prior matters where the Commission concluded that
15 the material involvement standard had been satisfied.³⁷

³⁴ See 11 C.F.R. § 109.21(d)(2)(i).

³⁵ See <https://www.youtube.com/watch?v=-ih3JWDF5gc> (last visited Sept. 4, 2014).

³⁶ See HMP Resp. at 2.

³⁷ See, e.g., MUR 5924 (Tan Nguyen) (material involvement included approving the content and disseminating the communication); MUR 5410 (Oberweis) (material involvement included editing the script as well as recommending the producer and appearing in the communication).

Alternatively, HMP argues that the coordination regulations do not apply to the Club at all, as the Club is not a "political party committee" as specified in those regulations. Rather, HMP equates "political party committee" status to FEC-registered political committees, citing the Commission's affiliation and coordinated party expenditure authority regulations in support. See HMP Resp. at 3-4. Because the Club is a local party organization chartered by the Florida and Pinellas County Democratic Party organizations, arguably it may constitute a "political party committee" for the purposes of the coordination regulations. See 52 U.S.C. § 30116(a)(7)(B)(ii) (formerly 2 U.S.C. § 441a(a)(7)(B)(ii)) (statutory basis for coordination regulations applies to, *inter alia*, "local committee[s] of a political party"); 11 C.F.R. § 100.5(e)(4) ("party committee" definition includes local committees); *id.* § 100.14(b)-(c) (addressing district or local committees and subordinate committees of a state, district, or local committee).

Given these circumstances, we recommend that the Commission find no reason to believe that HMP made an excessive contribution in the form of a coordinated communication or that the Committee or Party received or accepted such a contribution either directly or acting through the Club, Rich Piper, or Elizabeth Snedeker. Finally, we recommend that the Commission close the file.

III. RECOMMENDATIONS

1. Find no reason to believe that House Majority PAC and Shannon Roche in her official capacity as treasurer violated 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a));
2. Find no reason to believe that Alex Sink for Congress and Jennifer May in her official capacity as treasurer violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f));
3. Find no reason to believe that the Largo/Mid-Pinellas Democratic Club violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f));
4. Find no reason to believe that Elizabeth Snedeker violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f));
5. Find no reason to believe that Rich Piper violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f));
6. Approve the attached Factual and Legal Analysis;
7. Approve the appropriate letters; and

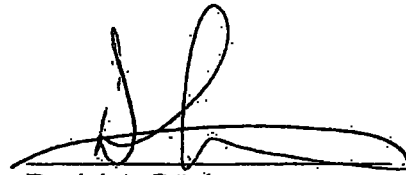
Nonetheless, since the Club's activity does not satisfy the conduct standard, the Commission need not decide that question here.

8. Close the file.

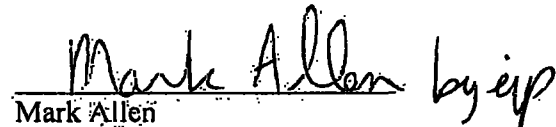
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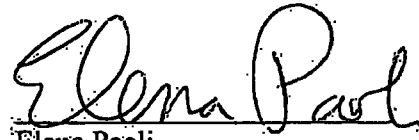
9/8/14

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